



## CONNECTICUT

**TESTIMONY OF  
NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)  
CONCERNING  
HB-5210; AAC VARIOUS PAY EQUITY AND FAIRNESS MATTERS  
BEFORE THE  
LABOR & PUBLIC EMPLOYEES COMMITTEE  
JANUARY 31, 2017**

*A non-profit, non-partisan organization founded in 1943, NFIB is Connecticut's and the nation's leading small-business association. In Connecticut, NFIB represents thousands of members and their employees. NFIB membership is scattered across the state and ranges from sophisticated high technology enterprises to "Main Street" small businesses to single-person "Mom & Pop" shops that operate in traditional ways. NFIB's mission is "To promote and protect the right of its members to own, operate, and grow their businesses." On behalf of those small- and independent- job-providers in Connecticut, NFIB/Connecticut offers the following comments:*

**NFIB/Connecticut** supports gender pay equity as has been the longstanding law in Connecticut. But House Bill 5210 does not appear to be about enforcing the legal requirements of pay equity, which already exist and are protected by state and federal laws. Rather, this bill appears to interfere with employers' hiring practices, layer on additional burdens, and may serve to create legal mires. The provisions in this bill, while no doubt well intended, unfortunately may or may not close a wage gap created by gender bias or perhaps even other factors which are not accounted for in the legislation, but in the midst could adversely impact small business owners.

While difficult to comment substantively on the individually proposed bill in its current form, the bill's imprecise language and undefined terms would seem to encourage private lawsuits. While NFIB/CT is appreciative that the legislation contemplates establishing an affirmative defense for employers, such affirmative defense would not even be necessary absent the proposed changes in the law contemplated by this legislation. For a small business owner, a lawsuit is one of the greatest fears because one legal action can destroy a company. A lawsuit is almost always a losing situation for a small business owner because the cost of the time spent defending the action, the cost of attorneys' fees, and the cost of insurance premium adjustments almost always outweigh any possible benefit. Settlement is almost always the most prudent solution and plaintiffs' lawyers know it. While lines 7-12 seemingly offer a safe harbor whereby employers who conduct a self-evaluation of their pay practices and subsequently institute appropriate adjustments can establish an affirmative defense, it is unclear from the bill and therefore would be left up to the courts to determine if an employer can "demonstrate that reasonable progress has been made".

In addition, while this bill would make wage history a prohibited subject for inquiry during some part of the hiring process, an employer's ability to still procure knowledge of



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previous wages (or even have such wages volunteered by the prospective employee, *See* lines 4-5) makes the prohibition less effective as to the goals of the bill while still regulating and interfering with the hiring process/operation of a business.

Small business owners often talk about the costs and uncertainty of doing business Connecticut, both real and perceived. Unfortunately, this bill threatens to again add to those costs and uncertainties for many small businesses by micromanaging their operations and increasing exposure to potentially frivolous lawsuits. While pay equity is a goal that NFIB/CT and our members support and share with the proponents of this legislation, rather than enacting new laws, a more appropriate focus for the legislature may be to examine better ways to enforce the current laws to ensure gender pay equity in Connecticut. Therefore, NFIB/CT suggests no action on the bill at this time.

Thank you for the opportunity to comment and for your consideration of NFIB's concerns on behalf of small business. For any questions or additional information, please contact Andy Markowski, NFIB/Connecticut State Director, at 860-248-NFIB.